

### **1001.03 ADMINISTRATION AND FEES**

**Subd. 1. Administrative Procedure.** All proposed developments shall conform with the provisions of this subdivision when requesting platting, rezoning, or site plan approval.

- A. Upon application for rezoning and platting of a parcel of land, the petitioner shall present a general development plan. This plan shall be a conceptual rendering only and shall not require the fine detail of a site plan. The general development plan shall be drawn to scale with topography of a contour interval not greater than two feet and showing the following:
1. The proposed site with showing existing development on adjacent properties within two hundred (200) feet.
  2. General location of proposed structures.
  3. Tentative street arrangements, both public and private.
  4. Amenities to be provided such as recreational areas, open space, walkways, etc.
  5. Tentative plat showing proposed streets and parks in relationship to the proposed development.
  6. General location of parking areas.
  7. Proposals for availability of public sanitary sewer, water, and storm drainage.
- B. A public hearing as required in this Chapter shall be scheduled before the Planning Commission. Following the public hearing, the Planning Commission shall make recommendation to the Council.
- C. The Council shall then consider the rezoning request.
- D. If the zoning change is approved, the general development plan shall be attached to and is a part of the chapter establishing the zoning change.
- E. Thereafter, changes in the general development plan will not be allowed without review by the Planning commission and approval by the council.
- F. Before building permits are issued, a site plan shall be reviewed by the Planning Commission and approved by the Council.

- G. The site plan shall be based upon an accurate certified survey; shall be prepared by or under the supervision of an architect and/or engineer registered in the State of Minnesota, and shall contain the following information: site plans shall be approved if they show conformity to this code, the comprehensive plan and all other application regulations.
1. Complete details of the proposed site development including, but not limited to, identification signs, location of buildings, streets, driveways, parking spaces, dimensions of the lot, lot area and yard dimensions.
  - 13 2. Complete landscaping plans reflecting all information and standards set forth, including species and showing planting size and mature size of trees and shrubs proposed. For significant trees to be saved, location, species, diameter, and tree protection methods must be identified on the landscape plan.
  3. Plans and specifications for fences, walls, and other buffers as required herein.
  4. Complete plans for proposed sidewalks or walkways to service parking, recreation and service areas within the proposed development.
  5. Complete plans and specifications for exterior wall finishes proposed for all principal and accessory buildings.
  6. Complete plans for storage areas for waste and garbage.
  7. Complete utility plans and fire protection plans.
- H. Properties in the City presently zoned in the R-2, RM, or any of the non-residential districts which are not presently developed shall be required to follow the site plan review procedures of Paragraph 7 above before the development shall occur. All general development plans and/or site plans which have been approved by Council action shall comply with all applicable regulations which are in effect at the time a building permit is applied for, provided that within six months of the date of said general development plan or site plan approval or a development contract, a building permit has been executed. If not executed within six months, the City regulation in effect at the time of the approval of said site plan or general development plan or development contract shall apply. Developments which require and which have received site plan approval by the Council, but for which no building permits have been applied for and issued within one year of council approval shall be considered null and void and shall be subject to the site plan re-approval requirements of this section; provided that within one year of the original Council approval, the original petitioner may request in writing an extension of not more than six months.

- J. Proposed minor structural additions involving 10% or less of the total existing floor area which meet all requirements may be approved by the zoning administrator prior to a building permit being issued and shall not require Planning Commission or Council action.

Following the approval of the site plan required in this subdivision and before issuance of a building permit, the developer shall guarantee to the City the completion of all private exterior amenities as shown in the site plan. Such amenities are hereby defined as landscaping, private driveways, parking areas, recreational facilities, drainage systems, and other similar facilities. Such guarantee shall be in the form of a bond, cash deposit or irrevocable letter of credit. A cash deposit or irrevocable letter of credit shall be in the amount of 100% of the estimated cost of such amenities and bond shall be in the amount of 150% of such estimated costs. The time allowed for completion of such private exterior amenities shall be set out in the resolution approving the site plan and the guarantee shall provide for its forfeit to the city in the event such completion date is not met by the developer. For good cause shown, the Council may extend the time for completion, in which event the developer shall provide a like guarantee for the extended period. As various portions of such amenities are completed by the developer and approved by the city, the city may release such portion of the guarantee as is attributable to such completed work. The developer shall notify the City in writing, that the improvements have been completed and may be inspected. Any instrument, submitted as a financial guarantee of completion of required site improvements, which contains provision for an automatic expiration date after which the instrument may not be drawn upon, notwithstanding the status of the required improvements, shall contain the following statement requiring notice to the city: It is a condition of this financial guarantee that it shall be deemed automatically extended without change for six months from the present or any future expiration date(s) unless sixty days prior to the expiration date(s) unless sixty days prior to the expiration date(s) we shall notify the city in writing by certified mail that we elect not to consider this financial guarantee renewed for an additional period.

Financial instruments, other than those cited above, which are submitted as a guarantee as required by this chapter, and which provide equivalent assurance to the City, may be approved by the Council.

- L. On development proposals requiring site plan review pursuant to this section, the Council, upon the recommendation of the Planning Commission, shall act as the Board of Zoning Appeals and adjustments with respect to variances from this chapter proposed by the site plan in accordance with the findings in this section.
- M. Fees for plat approval and lot division are set forth in Chapter 212. Applications for the foregoing must be accompanied by the fee.

- N. Whenever a variance, conditional use permit, rezoning and/or preliminary plat application has been considered and denied by the City Council and/or Planning and Zoning Commission, a similar application and proposal for variance, conditional use permit, rezoning, and/or preliminary plat affecting the same property shall not be considered again by the Planning and Zoning Commission or City Council for at least six (6) months from the date of its denial, except as follows:
1. If the applicant or property owner can clearly demonstrate that the circumstances surrounding the previous application have changed significantly.
  2. If the City Council/Planning and Zoning Commission determines that the circumstances surrounding a previous application have changed significantly.
  - <sup>6</sup> 3. Application to reconsider a similar application previously denied by the City Council or Planning and Zoning Commission within one (1) year from the date of denial shall require a four-fifths (4/5s) vote of the City Council or Planning and Zoning Commission.

**Subd. 2. Zoning Administrator.** The office of Zoning Administrator is hereby established. The Council may appoint as many persons as it deems necessary to carry out the duties of the office, which duties shall include the following:

- A. Issue certificates of occupancy and maintain records thereof.
- B. Periodically inspect buildings, structures, and uses of land to determine compliance with the terms of this chapter.
- C. Notify, in writing, any person responsible for violating a provision of this chapter, indicating the nature of the violation and ordering the action necessary to correct it.
- D. Order discontinuance of illegal use of land, buildings, or structures; order removal of illegal buildings, structures, additions, alterations; order discontinuance of illegal work being done, or take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions, including all maps, amendments, conditional uses and variances.
- E. Maintain permanent and current records of the zoning ordinance, including all maps, amendments, conditional uses and variances.
- F. Maintain a current file of all permits, all certificates and all copies of notices of violation, discontinuance, or removal for such -time as necessary to insure

a continuous compliance with the provisions of this chapter and, on request, provide information to any person having a proprietary or tenancy interest in any specific property.

- G. Provide clerical and technical assistance to the Planning Commission and Board of Zoning Adjustment and Appeals.
- H. Submit each month to the Planning Commission an itemized summary of certificates and permits granted and other significant activity of the preceding month.
- I. Receive, file, and forward to the Board of Zoning Adjustment and Appeals or Planning Commission all applications for conditional use permits, variances, amendments or development plans as required herein.

**Subd. 3. Board of Zoning Adjustment and Appeals.**

- A. **Creation and Membership.** A Board of Zoning Adjustment and Appeals is hereby established and vested with such administrative authority as is hereinafter provided. The Planning and Zoning Commission shall serve as the Board of Zoning Adjustment and Appeals.
- B. **Powers.** The Board shall have power to hear appeals from administrative determinations and questions of doubt concerning the exact location of district boundary lines, to hear appeals of administrative determinations from and to grant adjustment in and exceptions to any of the provisions of this chapter, except those adjustments and exceptions governed by Council determination, to the extent of the following, and no further:
  - 1. To consider applications for variance and modifications in any of the provisions of this chapter relating to:
    - a. Height, yard, area, and lot width and depth regulations.
    - b. Sign regulations providing that no such variance may be granted contrary to the requirements of the Minnesota Outdoor advertising Control Act and provided further that no variances shall be granted to permit signs in districts or locations where such signs are prohibited.
    - c. Parking and loading regulations.
    - d. Fence regulations.
    - e. Minimum floor area requirements.

- f. District boundary lines for special protection districts provided the purpose and intent of the districts are maintained and the provisions of this chapter are given due consideration.
2. The decision of the Board shall be final subject only to the right of an applicant to appeal such decisions to the Council. Notice of such appeal must be filed with the zoning administrator within a period of twenty days from and after a copy of the board's order has been mailed to the applicant at the address furnished by the applicant in the application.

<sup>33</sup>**Subd. 4. Variances.**

- A. Review Criteria. The board of adjustment shall not approve any variance request unless they find failure to grant the variance will result in undue hardship on the applicant, and, as may be applicable, all of the following criteria have been met:
  1. That because of the particular physical surroundings, shape, or topographical conditions of the specific parcel of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
  2. That the conditions upon which an application for a variance is based are unique to the parcel of land for which the variance is sought and are not applicable, generally, to other property within the same zoning classification.
  3. That the purpose of the variance is not based exclusively upon a financial hardship, or a desire to increase the value or income potential of the parcel of land.
  4. That the alleged hardship is caused by the provisions of the Zoning Ordinance and has not been created by any persons having an interest in the parcel of land and is not a self-created hardship.
  5. That the granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the neighborhood in which the parcel of land is located.
  6. That the proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.

7. That the requested variance is the minimum action required to eliminate the hardship.
  8. Does not involve a use which is not allowed within the respective zoning district.
- B. Procedure. Application for the adjustment permissible under the provisions of this section shall be made to the Zoning Administrator, in the form of a written application. An application for an adjustment shall be accompanied by payment of a fee, as established within this Section. Upon receipt of any application, such officer shall set a time and place for a hearing before the board on such application. At least ten days before the date of the hearing, a notice of the hearing shall be mailed to the applicant and to all property owners within 350 feet of the affected property and to other persons who, in the judgment of the Zoning Administrator, may be affected by a decision of the Board; although failure of such owners to receive notice shall not invalidate the proceedings. Notice of the purpose, time, and place of such public hearing shall be published in the City's official newspaper at least ten (10) days prior to the date of the hearing.
- C. Conditions of Approval. In granting any adjustment or variance under the provisions of this subdivision, the Board shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulations or provision to which the adjustment or variance is granted, as to light, air, and the public health, safety, comfort, convenience, and general welfare.

**Subd. 5. Conditional Uses.** The council may, by resolution, grant conditional use permits when such permits are authorized by resolution, grant conditional use permits when such permits are authorized by other sections of this chapter and may impose conditions and safeguards in such permits to protect the health, safety, and welfare of the community and assure harmony with the comprehensive plan of the city.

- A. Application. An application for a conditional use permit shall be made by the owners(s) of the property and shall be filed with the Zoning Administrator. All applications shall be accompanied by an administrative fee as prescribed by this Chapter and shall include the following information:
1. A description of the proposed use.
  2. A legal description of the property including plat and parcel number.
  3. A complete site plan, as described in Section 1001.03, provided that in the case of home occupations, an accurate drawing of the lot may be used.

4. A map showing the property in question and all property within 350 feet of the boundaries of the property in question.
  5. The names and addresses of the owners of record of all property within 350 feet of the boundaries of the property in question as the same appears on the records of the County Auditor.
  6. Any other information required by the Zoning Administrator, Planning Commission, or Council.
- B. Referral to the Planning Commission. Before any conditional use permit may be granted, the application shall be referred to the Planning Commission for study concerning the effect of the proposed use on the Comprehensive Plan and the character and development of the neighborhood, and for its recommendation to the Council for the granting of such conditional use permit and the conditions thereof, if any, for the denial of such conditional use permit.

The Planning Commission shall hold a public hearing on the proposal to issue a conditional use permit in the manner provided in this Chapter. Following the Planning commission review/hearing, the Planning Commission shall make a report upon the proposal to the Council and shall recommend to the Council whatever action it deems advisable. (Subd. 03 amended by Ordinance 86-4, passed March 25, 1986.)

- C. Issuance. Upon receipt of the report of the Planning Commission, the Council may hold a public hearing in the manner provided in this Chapter. In considering applications for conditional use permits under this chapter, the Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, and welfare of occupants or surrounding lands, including, but not limited to, factors of noise, glare, odors, existing and anticipated traffic conditions, including parking facilities, on adjacent streets, the effect on values of property in the surrounding area, and the effect of the proposed use on the Comprehensive Plan. The Council shall also consider whether the applicant has complied and is likely to comply in the future, with any additional standards pertinent to the proposed use as set out in other sections of this and any other chapter of this code. If detrimental to the health, safety or general welfare of the community and that the same is in harmony with the general purpose and intent of this chapter and the comprehensive plan, the Council may grant such permits and may impose conditions and safeguards therein. The Zoning Administrator shall have the power to enter at reasonable times upon any private or public property for the purpose of inspection and investigating.

The Council may, by resolution, deny a conditional use permit and include the findings and reasons for denial in the resolution. If the Planning Commission recommends denial of a conditional use permit, the findings and

reasons shall be set forth in their written report to the Council. (Subd. 04 amended by Ordinance 86-4, passed March 25, 1986.)

- D. Standards. The Planning Commission shall recommend a conditional use permit and the Council shall order the issuance of such permit only if it finds that such use meets at least the following standards at the proposed location:
1. Will not be detrimental to or endanger the public health, safety, comfort, convenience, or general welfare of the neighborhood or the city.
  2. Will be harmonious with general and applicable specific objectives of the Comprehensive Plan of the City and this chapter.
  3. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.
  4. Will not be hazardous or disturbing to existing or future neighboring uses.
  5. Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems, and schools; or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
  6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
  7. Will not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, or odors.
  8. Will have vehicular approaches to the property which are not so designed to create traffic congestion or an interference with traffic on surrounding public thoroughfares.
  9. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.
  10. Will conform to specific standards of this chapter applicable to the particular use.

- E. Conditions. In recommending or approving any conditional use permit, the Planning Commission and Council may impose conditions which it considers necessary to meet the standards of this chapter and to protect the best interests of the City. These conditions may include; but are not limited to the following:
1. Ingress and egress to property and proposed structures thereon with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
  2. Off-street parking and loading areas where required, with particular attention to the items listed above, and the economic, noise, glare, or odor effects of the conditional use on nearby property.
  3. Refuse and service areas, with particular reference to the items (A) and (B) above.
  4. Utilities, with reference to location, availability, and compatibility.
  5. Diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.
  6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.
  7. Required yards and other open space.
  8. General compatibility with adjacent and other property in the district.

<sup>33</sup>F. Expiration:

1. Unless the City Council specifically approves a different time when action is officially taken on the request, conditional use permits that have been issued shall expire without further action by the City Council, unless the applicant commences the authorized use within twelve (12) months of the date the conditional use permit is issued unless before the expiration of the twelve (12) month period, the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as established by the City Code. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. A request for an extension not exceeding twelve (12) months shall be subject to the review and approval of the Zoning Administrator. Should a second extension of time or any extension of time longer than twelve (12) months be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

2. Any use allowed by a conditional user may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except as specifically provided in this chapter, unless the use is discontinued for a period of more than eighteen months; After a period of non-use of eighteen months, the conditional use permit shall be deemed to be expired and void. Reestablishment of the use shall be applied for and as provided for by this Section for issuance of a conditional use permit and shall comply with all applicable provisions of the Zoning Ordinance.

<sup>33</sup>G. Revocation: The Planning Commission may recommend, and the City Council may direct, the revocation of any conditional use permit for cause upon determination that the authorized conditional use is not in conformance with the conditions of the permit or is in continued violation of the Zoning Ordinance, City Codes, or other applicable regulations. The City Council or Planning Commission shall initiate an application and the Zoning Administrator shall notify the responsible person that they have an opportunity to show cause why the permit should not be revoked. The application shall be processed and considered pursuant to this Section. The Zoning Administrator shall provide the responsible person a copy of the proceedings and findings of the Planning Commission and City Council.

#### **Subd. 6. Interim Uses.**

- A. Purpose and Intent. The purpose and intent of allowing interim uses is:
1. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
  2. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
  3. To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

B. Procedure.

1. Existing Uses: Uses defined as interim uses which presently exist as a legal use or a legal nonconforming use within a respective zoning district shall be considered approved and shall be treated as allowed uses.
2. New Uses: Uses defined as interim uses which do not presently exist within a respective zoning district shall be processed according to the standards and procedures for a conditional use permit as established by Subd. 05 of this Chapter.

C. General Standards. An interim use shall comply with the following:

1. Existing Uses: Shall be in conformance with zoning and building standards in effect at the time of initial construction and development and shall continue to be governed by such regulations in the future.
2. New Uses:
  - a. Meets the standards of a conditional use permit set forth in Subd. 05.D of this chapter.
  - b. Conforms to the applicable performance standards of this Chapter.
  - c. The use is allowed as an interim use in the respective zoning district.
  - d. The date or event that will terminate the use can be identified with certainty.
  - e. The use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
  - f. The user agrees to any conditions that the City Council deems appropriate for permission of the use.

D. Termination. An interim use shall terminate on the happening of any of the following events, whichever first occurs:

1. The date stated in the permit.
2. Upon violation of conditions under which the permit was issued.
3. Upon change in the City's zoning regulations which renders the use non-conforming.

4. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

**Subd. 7. Amendment.**

- A. Procedure. This code may be amended whenever the public necessity and convenience and the general welfare require such amendment by following the procedure specified as follows:
  1. Proceedings for amendment shall be initiated by (1) a petition of the owner or owners of the actual property, the zoning of which is proposed to be changed; (2) a recommendation of the Planning Commission, or (3) by action of the Council.
  2. To defray administrative costs of processing of requests for amendment of a fee, as established by the Council, shall be paid by the petitioner.
  3. All applications for changes in the boundaries of any zoning district which are initiated by the petition of the owner or owners of property, the zoning of which is proposed to be changed, shall be accompanied by a map or plat showing the lands proposed to be changed and all lands within three hundred fifty feet of the boundaries of the property proposed to be rezoned, together with names and addresses of the owners of the lands in such area as the same appear on the records of the County Auditor of Hennepin/Wright County which shall be provided by the petitioner.
  4. Before any amendment is adopted, the Planning Commission shall hold at least one public hearing thereon after a notice of the hearing has been published in the official newspaper at least ten days before the hearing, and, in the case of district boundary amendments, has been mailed to property owners within 350 feet of the subject property, although failure of such owners to receive notice shall not invalidate the proceedings. Following the hearing, the Planning Commission shall make a report of its findings and recommendation is transmitted by the Planning Commission within sixty days, after the hearing, the Council may take action without awaiting such recommendation.
  5. Upon filing of such report, the Council shall hold such public hearings on the amendment as it deems advisable. After the conclusion of the hearings, if any, the Council may adopt the amendment or any part thereof in such form as it deems advisable.

15

6. The Council may, by resolution, deny a proposed amendment and include the findings and reasons for denial in the resolution. If the Planning commission recommends denial of a proposed amendment, the findings and reasons shall be set forth in their written report to the Council. Approval of a proposed amendment shall require a majority vote of the City Council. Approval of a proposed Zoning Map amendment which changes all or part of the existing classification of a zoning district from residential to either business, industrial, or planned unit development that allows for commercial or industrial uses shall require a four-fifth's (4/5's) vote of the City Council.
- B. Determination of Substantially Similar Use. Any landowner may request a determination by the Council that a use not included in any district of this chapter is substantially similar to a use classified as permitted, conditional, or accessory in the district in which the property is located. An application for such a determination shall be filed with the Zoning Administrator who shall refer it to the Planning Commission. The Planning Commission shall consider the application and shall file its recommendations with the Council. If the Council determines that the use is substantially similar to a use included in these regulations, such use shall thereafter be an allowable use whenever the similar use is authorized.

**Subd. 8. Certificate of Occupancy.**

A. Application. A certificate of occupancy shall be obtained before any building hereafter erected or structurally altered is occupied or used; or the use of any such building is altered.

B. Procedure.

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1. Application.
  - a. Requests for a certificate of occupancy for a new building or for an existing building which has been altered shall be made to the Zoning Administrator as part of the application for a building permit as required in this section.
  - b. Applications for a building permit and certificate of occupancy shall include a certificate of survey. Applications for a building permit and certificate of survey for all single family dwellings shall explicitly show the proposed home type and driveway location. Both the home type and driveway location must match that indicated on the approved grading plan unless approved by the City Engineer.

- c. No building permit for the erection or alteration of a building shall be issued before the application has been made for a certificate of occupancy.
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  - 2. Issuance. The Zoning Administrator shall issue a certificate of occupancy within ten (10) days after the erection or alteration of a building or part thereof is completed and found to be in conformance with the applicable provisions of the City Code.
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  - 3. Temporary Certificate of Occupancy.
    - a. The Zoning Administrator may issue a temporary certificate of occupancy for a period not to exceed six (6) months during the completion of the erection or alteration of a building and required site improvements.
    - b. The temporary certificate of occupancy shall not be respective to right, duties or obligations of the owners or City relating to the use or the occupancy of the premises or any other matter except under such restrictions and provision as will adequately insure the safety of the occupants.
    - c. The City may require a cash escrow or other security for completion of required improvements necessary for issuance of a certificate of occupancy. Such security shall be in the amount determined by the Zoning Administrator.
      - 1) Residential Uses, Prior to issuance of a temporary certificate of occupancy for a residential use, the developer or builder shall provide the property owner with a certificate of credit from a local area contractor equal to the costs of materials and labor as determined by the Zoning Administrator for all exterior improvements not installed due to season, including but not limited to driveways and landscaping, required by this Chapter or the development contract.
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  - 4. Non-Conforming Uses. A certificate of occupancy shall be issued for all lawful nonconforming uses of land or buildings. Application for such certificate of occupancy for a non-conforming use shall be filed with the Zoning Administrator by the owner or lessee of the building or land occupied by such non-conforming use by October 1, 1984. It shall be the duty of the Zoning Administrator to issue a certificate of occupancy for a lawful non-conforming use, or refusal of the Zoning Administrator to issue a certificate of occupancy for such non-conforming use shall be prima facie evidence that such nonconformity is unlawful. An appeal to the

Board of Adjustment and Appeal may be taken from an adverse decision of the Zoning Administrator.

- 12 5. Inspection. A periodic inspection shall be made by the building inspector of all non-residential buildings and sites which have a certificate of occupancy, and if it is found that such building does not conform to the applicable requirements, the certificate of occupancy may be revoked and the building shall not be occupied until such time as the building is again brought into compliance with such requirements.

**Subd. 9. Enforcement.**

- A. Compliance with Regulations. No person shall erect, alter, wreck, or move any building or part thereof without first securing a building permit therefore.
- B. Building Permits. Application for a building permit shall be made to the Zoning Administrator on blank forms to be furnished by the City. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Each single family dwelling shall include plans for at least a single stall garage to be built in conjunction with the home. Applications for any kind of building permit shall contain such other information as may be deemed necessary for the proper enforcement of this chapter or any other. The fee for a building permit shall be determined by the Council. The Zoning Administrator shall issue the building permit only after determining that the building plans, together with the application, comply with the terms of this chapter.
- C. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this chapter, the Zoning Administrator and the City, in addition to all other remedies, may institute any proper action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about said premises.
- D. Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor, except as otherwise stated in specific provisions hereof.

- E. The City shall recover the costs of its enforcement of this Chapter from a person convicted under Subd. 09.D., including reasonable attorney's fees incurred by the City's attorney in such enforcement.

**Subd. 10. Administrative and Escrow Fees.** Each applicant shall be charged the fixed fee specifically provided by the Council as required to cover the costs incurred by the City in administratively processing, reviewing and issuing of permits and approvals and shall make an escrow deposit pursuant to Section 1001.03 Subd. 12.

**Subd. 11. Expiration.** If substantial construction has not taken place within one year after the date of a permit, the permit shall be void except that, on application, the Council, after receiving the recommendation of the Planning Commission, may extend the permit authorizing only the conditional use specified in the permit and expires if, for any reason, the authorized use ceases for more than one year.

**Subd. 12. Escrow Deposits.**

- A. Intent. Certain licensed and permitted activities carried on in the city require the assistance of the city Engineer, city attorney, city planner, or other city personnel. As these activities primarily benefit private persons rather than the city as a whole, it is appropriate that the cost of these services be borne by those benefiting thereby.
- B. Escrow Deposit Required. Applications for subdivision approval, rezonings, conditional use permits, planned unit developments, zoning variances, sewer connection permits, liquor licenses, building permits, and other municipal considerations may require a cash deposit which shall be placed in an applicant's escrow account in an amount sufficient to pay all engineering, legal, and planning fees, and such other costs as may be made the applicant's responsibility, incurred in connection with an application shall be charged to the applicant's escrow account and credited to the city.
- C. Guarantee of Payment. The city shall have the authority to certify the collection of fees through a tax assessment on the property in question.
- D. Fee Schedule. The council shall establish fees for services rendered by the city attorney, city engineer, city planner, and other city personnel. The fee schedule shall be provided to all persons making application listed in Chapter 209.02 upon request.
- E. Individual Fees. Based on the fee schedule adopted pursuant to 209.03, the clerk-treasurer shall determine the amount of the escrow deposit required after consultation with the city attorney, city engineer, city planner, and other city

personnel whose services may be required. All time, services, and materials to be billed to an escrow account shall be itemized.

F. Enforcement.

1. Application. The application listed in Subd. 15.B shall not be accepted or processed by the city unless accompanied by an escrow deposit as provided in this chapter.
2. Deficits. If at any time it appears that a deficit will occur in any escrow account, the clerk-treasurer may then require an additional deposit in the escrow account sufficient to cover the additional expenses. Failure to make such additional deposits, or to pay to the city money owed for legal, engineering or other services for which the applicant is by ordinance made responsible in connection with an application in Subd. 15.B shall be grounds for denial or revocation of the permit or license, or cessation of work on a particular project. Such permit or license shall be revoked only after a hearing preceded by ten days written notice.

G. Refund. Any money remaining in an applicant's escrow account after payment of all required engineering, legal, and other fees shall be returned to the applicant.